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10/796,702	03/09/2004	Johann F. Petersen	58999US003	2885

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EXAMINER	
WOLLSCHLAGER, JEFFREY MICHAEL	

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/796,702	Applicant(s) PETERSEN ET AL.	
	Examiner JEFFREY WOLLSCHLAGER	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-27 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-27 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment to the claims, specification, and drawings filed November 8, 2007 have been entered. Claims 1-3, 5-27 and 34 are pending and under examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 5-26 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642) when taken with Kennedy et al. (US Pat. 5,260,015) and further in view of any of Wood et al. (US 6,668,435) or Itou et al. (US 6,955,847) or Kronzer (US 5,616,155).

Buzzell et al. teaches the basic claimed process of forming a fastening web laminate, comprising: providing a fibrous web layer (Figs. 13 and 13a) for employment as the loop

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member in a hook and loop fastener (col. 14, line 60 – col. 15, line 27); passing the fibrous web layer through a roll nip formed by a mold roll and a backing roll (Fig. 13); introducing molten resin to the roll nip (Fig. 13); allowing the molten resin to partially solidify and then stripping a precursor laminate from the mold roll (Fig. 13); and stretching the precursor laminate (Figs. 1-2; Abstract) to the extent desired for the intended application (Abstract; col. 10, line 50-67).

Buzzell et al. further teaches applying a thermal energy prior to stretching (Figs. 1-2). Kennedy et al., which is incorporated by reference into Buzzell et al. (15:1-20), teaches a nonwoven fabric (5:45-60) and Buzzell teach a draw ratio of 2-8 (7:55-8:40) and stretching in a tenter apparatus (Figs. 1-2).

Buzzell et al. further teaches fastener element having densities in the range of 200-2000 per sq. inch and optimizing the density depending upon the desired final use of the fastener (8:40-65); J-shaped fastener heads (Fig. 5); longitudinal stretching using driven rods (4:50-60); various thermoplastic materials such as PET, polypropylene, nylon, and other copolymers (2:40-55 and 9:65-10:50). Buzzell et al. also teaches that the materials are chosen, in part, based upon their physical properties (4:65-5:50).

Buzzell et al. does not teach all the specific physical properties or dimensions of the laminate or nonwoven web. However, each of Wood et al. (Abstract; col. 3, lines 25-62), Itou et al. (Abstract; col. 1, lines 13-65; col. 4, lines 61-col. 5, line 5) and Kronzer (col. 2, line 51-col. 3, line 6) individually disclose fibrous webs within the claimed range (claim 34) and teach optimizing the basis weight of fibrous webs in hook and loop fastener system as desired for the intended application. Furthermore, a person of ordinary skill in the art would have found it obvious to have optimized product properties and dimensions, using routine experimentation as suggested by Buzzell et al. and in view of the combination as a whole in order to form a desired commercially viable product having desired physical traits. Additionally, regarding claim 1, the

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combination employs the same claimed materials in the same claimed process. Accordingly, the same claimed physical properties (e.g. basis weight) and effects are intrinsically realized by the combination.

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have employed a fibrous web as claimed while practicing the method of Buzzell for the purpose as suggested by any of Wood et al., Itou et al. and Kronzer for providing a loop portion of the fastener suitable for its intended application (e.g. heavy or light duty) and to reduce "fluffing" by repeated fastening and peeling operations while considering production costs (Itou et al: col. 4, line 61-col. 5, line 5) to achieve a stretched product of a desired basis weight suitable for its intended application.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642), when taken with Kennedy et al. (US Pat. 5,260,015), in view of any of Wood et al. (US 6,668,435) or Itou et al. (US 6,955,847) or Kronzer (US 5,616,155), as applied to claims 1, 3, and 5-26 above, and further in view of de Navas Albareda (US Pat. 4,056,593).

Buzzell et al. teach the basic claimed process as set forth above. Buzzell et al. does not teach cutting the precursor laminate in the CD. However, de Navas Albareda teaches cutting a precursor fastener web in the CD (Figs. 1 and 3).

At the time of invention a person of ordinary skill in the art would have found it obvious to have cut a the precursor web in the CD, as taught by de Navas Albareda, in the process of Buzzell et al., because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means for forming fastener products[

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US Pat. 6,582,642), when taken with Kennedy et al. (US Pat. 5,260,015), in view of any of Wood et al. (US 6,668,435) or Itou et al. (US 6,955,847) or Kronzer (US 5,616,155) and in view of de Navas Albareda (US Pat. 4,056,593).

Buzzell et al. teaches the basic claimed process of forming a fastening web laminate, comprising: providing a fibrous web layer (Figs. 13 and 13a); passing the fibrous web layer through a roll nip formed by a mold roll and a backing roll (Fig. 13); introducing molten resin to the roll nip (Fig. 13); allowing the molten resin to partially solidify and then stripping a precursor laminate from the mold roll (Fig. 13); and stretching the precursor laminate (Figs. 1-2). Buzzell et al. further teaches: applying a thermal energy prior to stretching (Figs. 1-2); Kennedy et al., which is incorporated by reference into Buzzell et al. (15:1-20), teaches a nonwoven fabric (5:45-60); a draw ratio of 2-8 (7:55-8:40); stretching in a tenter apparatus (Figs. 1-2);

Buzzell et al. does not teaches slitting/cutting the precursor laminate in the CD. However, de Navas Albareda teaches cutting a precursor fastener web in the CD (Figs. 1 and 3). At the time of invention a person of ordinary skill in the art would have found it obvious to have cut a the precursor web in the CD, as taught by de Navas Albareda, in the process of Buzzell et al., because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means for forming fastener products.

Buzzell et al. does not teach all the specific physical properties or dimensions of the laminate or nonwoven web. However, each of Wood et al. (Abstract; col. 3, lines 25-62), Itou et al. (Abstract; col. 1, lines 13-65; col. 4, lines 61-col. 5, line 5) and Kronzer (col. 2, line 51-col. 3, line 6) individually disclose fibrous webs within the claimed range and teach optimizing the basis

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weight of fibrous webs in hook and loop fastener system as desired for the intended application. Furthermore, a person of ordinary skill in the art would have found it obvious to have optimized product properties and dimensions, using routine experimentation as suggested by Buzzell et al. and in view of the combination as a whole in order to form a desired commercially viable product having desired physical traits.

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have employed a fibrous web as claimed while practicing the method of Buzzell for the purpose as suggested by any of Wood et al., Itou et al. and Kronzer for providing a loop portion of the fastener suitable for its intended application (e.g. heavy or light duty) and to reduce "fluffing" by repeated fastening and peeling operations while considering production costs (Itou et al: col. 4, line 61-col. 5, line 5) to achieve a stretched product of a desired basis weight suitable for its intended application.

Response to Arguments

Applicant's arguments filed November 8, 2007 have been considered, but they are not persuasive. Applicant argues that the rejection does not teach or suggest a laminate having a basis weight of less than 100 g/m². Applicant's argument essentially alleges that Buzzell teach employment of a microcreped/creped/precompressed loop material to mitigate the lowering of the basis weight and thereby do not produce a laminate having a basis weight of less than 100 g/m². This argument is not persuasive. As an initial matter, the examiner notes that the fabric employed by Buzzell is creped so that it can undergo widthwise stretch without shortening (col. 15, lines 1-2). However, Buzzell is not limited to widthwise stretching, but also discloses longitudinal stretching (col. 11, lines 12-53). Further, the examiner notes that while Buzzell discloses employment of a microcreped fabric, the combination is not limited to microcreped

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fabrics as is suggested by the secondary references. Additionally, the combination rejecting claim 1 employs the same claimed materials and practices the same claimed method. Accordingly, the same claimed effects and physical properties would have been realized by the practice of the method. The examiner further notes that Buzzell also produce a web having the same thickness as claimed (col. 13, lines 26-36).

Additionally, the secondary references set forth the art recognized impact of the basis weight of the loop material and suggest optimizing it for the intended application. It follows that the basis weight of the fabric is an art recognized result effective variable that would have been readily optimized. Finally, the examiner concludes that one having ordinary skill at the time of the claimed invention would have been able to predictably determine, with a reasonable expectation of success, the starting basis weight for the fabric required to yield a final product, after stretching, having the desired basis weight while ensuring the strength and thickness of the stretched material was still suitable for the intended application. The examiner submits that the claims would need to be amended to overcome the rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./
Examiner, Art Unit 1791

January 30, 2008


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER